



**US Army Corps  
of Engineers.**  
Philadelphia District  
Wanamaker Building  
100 Penn Square East  
Philadelphia, PA 19107-3390  
ATTN: CENAP-OP-R

# Public Notice

Public Notice No. <b>CENAP-OP-R-</b>	Date <b>JUL 07 2006</b>
<b>200600166-26</b>	
Application No.	File No.
In Reply Refer to: <b>REGULATORY BRANCH</b>	

This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

The purpose of this notice is to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the work described below.

APPLICANT: Duber, Marc

AGENT/ADDRESS: Coastal and Estuarine Research, Incorporated  
Marine Studies Complex  
P.O. Box 674  
Lewes, DE 19958

WATERWAY: Lewes and Rehoboth Canal

LOCATION: Property identified as Lot 4, Block H, Tidewaters, Tax Map Parcel 3-34-13.12-2.00, Henlopen Acres, Rehoboth Beach, Lewes and Rehoboth Hundred, Sussex County, Delaware.

ACTIVITY: As depicted on the attached drawings E1-E8, dated October 2005, last revised February 2006, the applicant proposes to add a 6' x 25' dock with a 7' x 16' boat lift to an existing 20' x 4' pier and 30' x 5' dock previously issued by Department of the Army Permit CENAP-OP-R-200002462-26.

On May 25, 2006, Delaware Division of Water Resources Wetland and Subaqueous Lands Section issued a Supplemental Approval for the proposed work [SU-037/06].

PURPOSE: Purpose of the work is to moor a second boat at the docking facility.

Essential Fish Habitat Assessment: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (public law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions or proposed actions, permitted, funded, or undertaken by the agency that may adversely effect essential fish habitat (EFH). Effects of the Project on Essential Fish Habitat (EFH): The project is located in Essential Fish Habitat identified on

Sheet 81 of Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware, March 1999. The following managed species of fish have been listed in the above referenced guide as occurring in the vicinity of the project: bluefish (Pomatomus saltatrix), summer flounder (Paralichthys dentatus), scup (Stenotomus chrysops), black sea bass (Centropristus striata), spiny dogfish (Squalus acanthias), surf clam (Spisula solidissima), Atlantic butterflyfish (Peprilus triacanthus), king mackerel (Scomberomorus cavalla), Spanish mackerel (Scomberomorus maculatus), Atlantic cod (Gadus morhua), winter flounder (Pleuronectes americanus), summer flounder (Paralichthys dentatus), windowpane flounder (Scophthalmus aquosus), red hake (Urophycis chuss), white hake (Urophycis tenuis),

Atlantic sea herring (Clupea harengus), monkfish (Lophius americanus), cobia (Rachycentron canadum), and the following shark species: scalloped hammerhead (Sphyrna lewini), sandbar (Carcharhinus obscurus), sand tiger (Odontaspis taurus), dusky (Carcharhinus plumbeus), Atlantic sharpnose (Rhizoprionodon terraenovae), Atlantic angel (Squatina dumerili).

Analysis of the Effects: The proposed dock and boat lift construction would occur in waters and on substrates that are in an artificially created canal subject to sediment accretion and regular, seasonal boat traffic. Such an area is expected to have relatively poor water quality, and is an unlikely spawning or nursery area for the managed species. Consequently, concentrations of the sessile life stages (eggs and larvae) of the listed species are not expected to be within the work area. The pelagic adults and juveniles of the listed species are highly mobile and capable of avoiding impacts associated with the work.

Corps of Engineers View: Based on the above analysis, the Corps of Engineers has determined that the proposed project would not have substantial direct, indirect, site-specific, or habitat-wide impacts on EFH, or upon the managed species and their life stages listed in the above referenced EFH guide, either individually, cumulatively, or synergistically. The proposed project would not eliminate, diminish, nor disrupt the functions of EFH.

A preliminary review of this application indicates that the proposed work would not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

The decision whether to issue a permit will be based on an evaluation of the activity's probable impact including its cumulative impacts on the public interest. The decision will reflect the national concern for both protection and utilization

of important resources. The benefits which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and welfare of the people. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the proposed work should be submitted, in writing, within 15 days to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390.

Review of the National Register of Historic Places indicates that no registered properties or properties listed as eligible for inclusion therein are located within the permit area of the work.

In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. The applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program. No permit will be issued until the State has concurred with the applicant's

certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by calling Mr. Kevin E. Faust at (302) 736-9763 between the hours of 1:00 and 3:30 p.m. or writing this office at the above address.

A handwritten signature in dark ink, appearing to read "Frank J. Cianfrani", is written over a printed name and title.

Frank J. Cianfrani  
Chief, Regulatory Branch

25'  
 ADDITION OF 6' X 30' DOCK WITH BOAT LIFT  
 IN: Lewes & Rehoboth Canal  
 AT: 71 Tidewaters (Lot 4, Block H),  
 (Tax Map Parcel #3-34-13.12-2.00)  
 Henlopen Acres, Sussex Co., DE 19971  
 APPLICANTS: Marc Duber  
 DATE: ~~October 2005~~ *revised Feb 2006 per DNREC request*

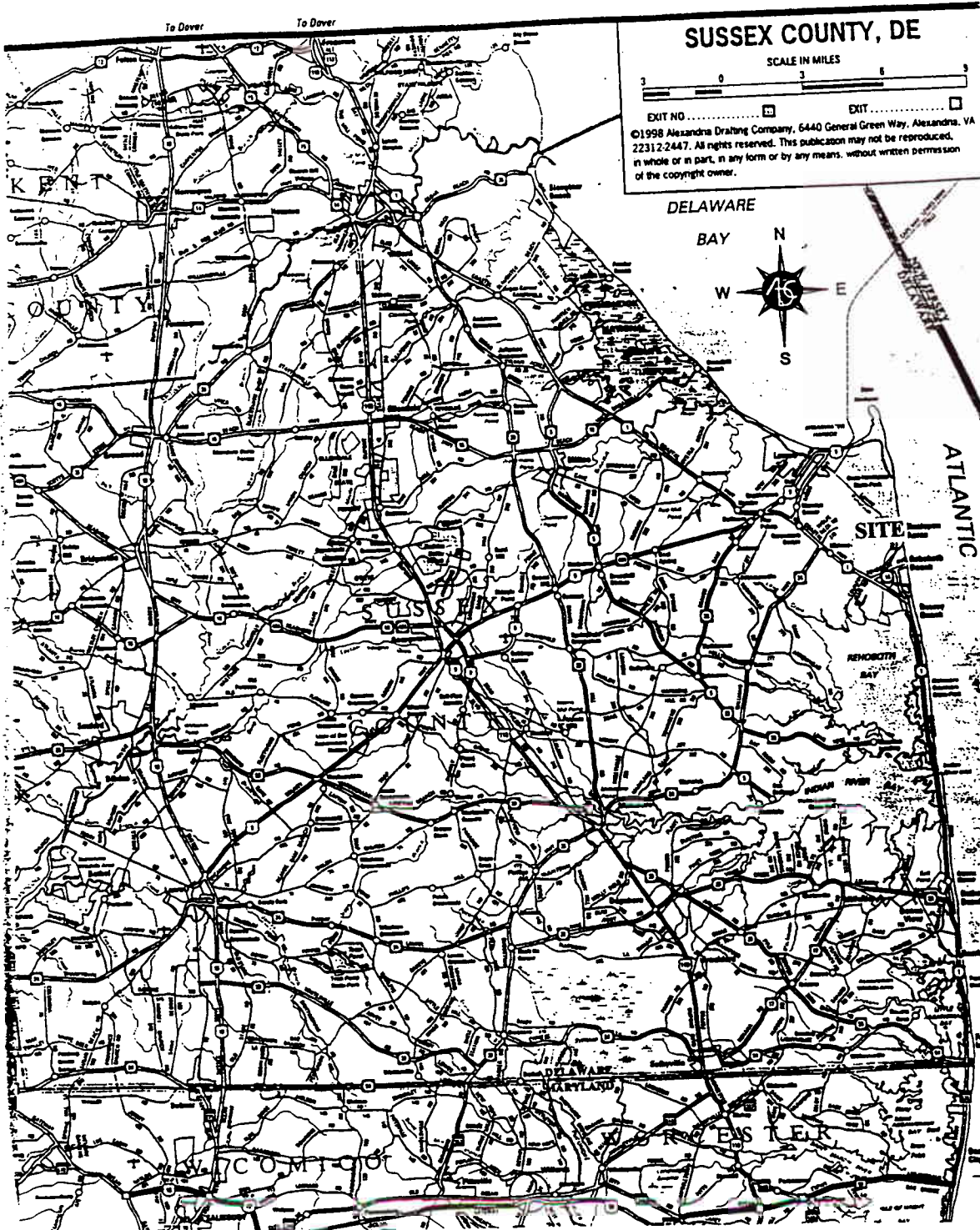


Figure 1. Map of Sussex County, Delaware showing site location, Henlopen Acres (north of Rehoboth Beach). Scale as shown.

E-1



25'

**ADDITION OF 6' X 20' DOCK WITH BOAT LIFT**

IN: Lewes & Rehoboth Canal  
AT: 71 Tidewaters (Lot 4, Block H),  
(Tax Map Parcel #3-34-13.12-2.00)  
Henlopen Acres, Sussex Co., DE 19971

APPLICANTS: Marc Duber

DATE: October, 2005

*Revised Feb 2006  
per DPREC request*

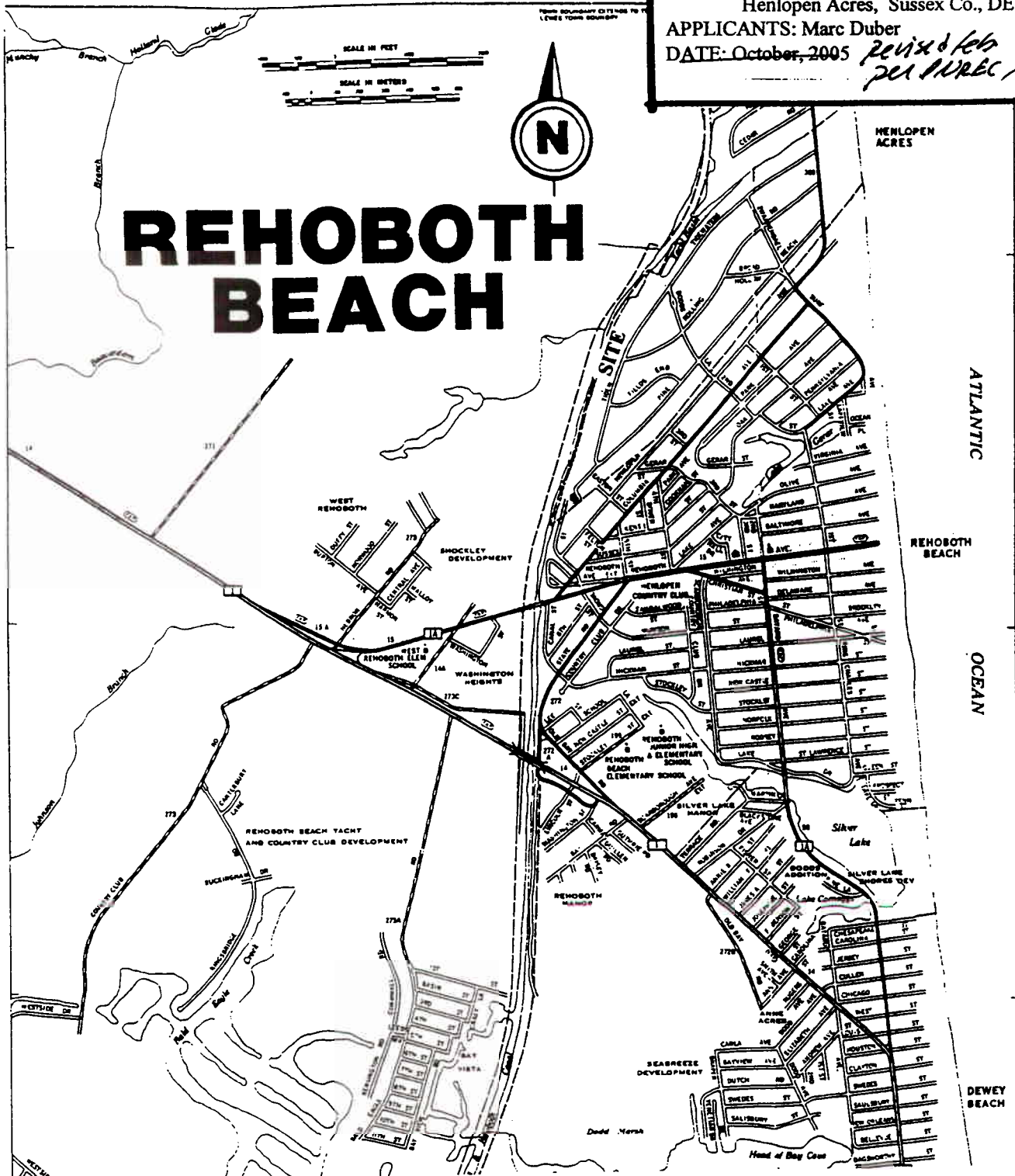


Figure 2.

Map of Rehoboth Beach and vicinity, Sussex County, Delaware, showing site location, 71 Tidewaters, Henlopen Acres. Directions to site (from Dover, DE): Route 113 southbound to Milford; Route 1 southbound to Rehoboth Beach; left onto Route 1A (Rehoboth Avenue) into Rehoboth Beach; cross Lewes & Rehoboth Canal bridge, left onto Columbia Avenue; left onto 2nd Street; enter Henlopen Acres (Dodds lane); Dodds Lane to Tidewaters; left onto Tidewaters; site is house at 71 Tidewaters, on right.

*E-2*

**ADDITION OF 6' X 30' DOCK WITH BOAT LIFT**  
**IN:** Lewes & Rehoboth Canal  
**AT:** 71 Tidewaters (Lot 4, Block H),  
 (Tax Map Parcel #3-34-13.12-2.00)  
 Henlopen Acres, Sussex Co., DE 19971  
**APPLICANTS:** Marc Duber  
**DATE:** ~~October, 2005~~ *Revised Feb 2006 per*

**APPLICANTS: Marc Duber**

DATE: ~~October, 2005~~ Revised Feb 2006 per

*Isabel Amador*

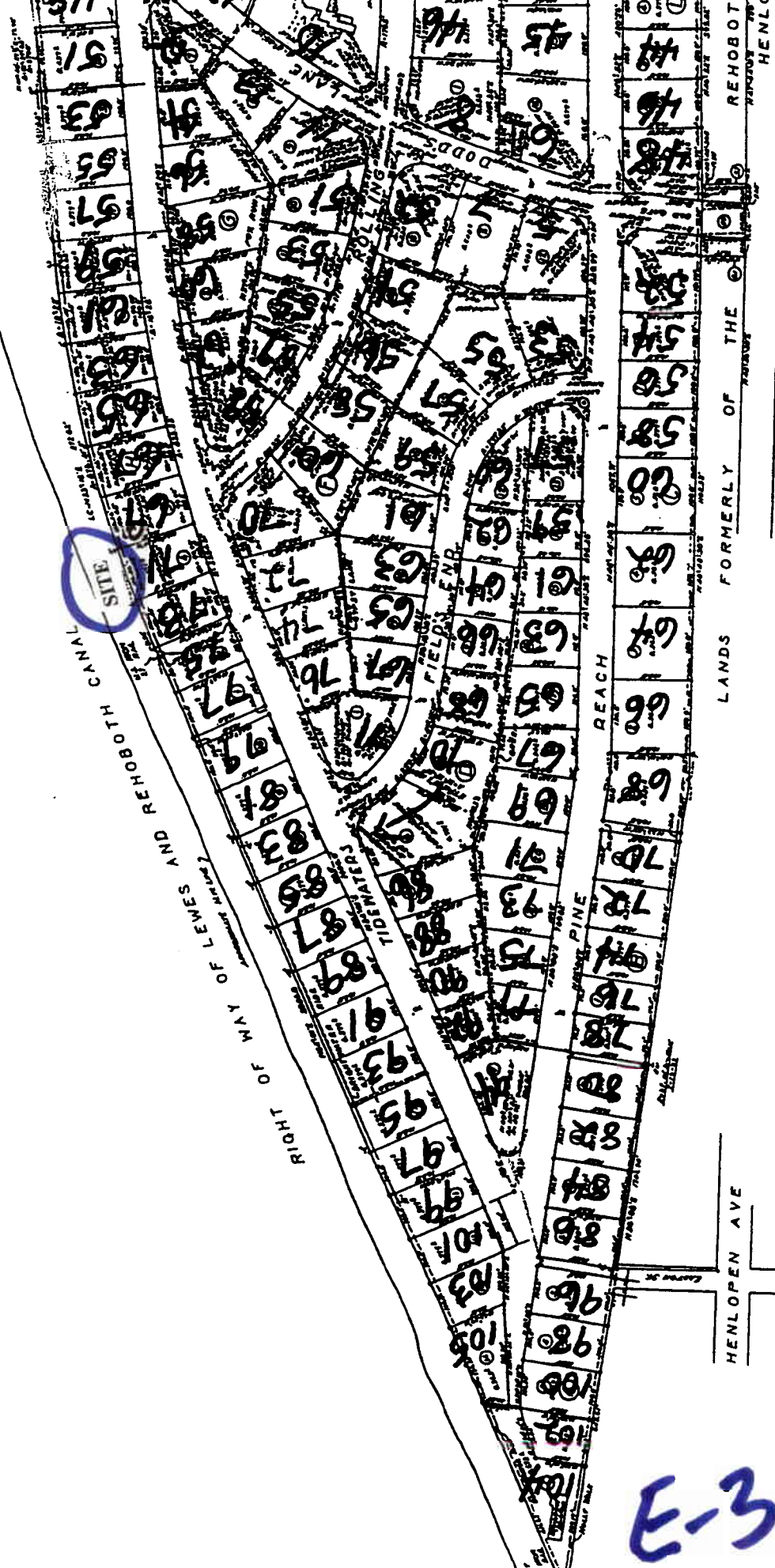


Figure 3. Map of portion of Henlopen Acres showing site location, 71 Tidewaters (Lot 4, Block H).

**ST. LUTHER, INC.**

ADDITION OF 6' X 30' DOCK WITH BOAT LIFT  
 IN: Lewes & Rehoboth Canal  
 AT: 71 Tidewaters (Lot 4, Block H),  
 (Tax Map Parcel #3-34-13.12-2.00)  
 Henlopen Acres, Sussex Co., DE 19971  
 APPLICANTS: Marc Duber  
 DATE: October, 2005 *Revised Feb 2006 per DNR request*

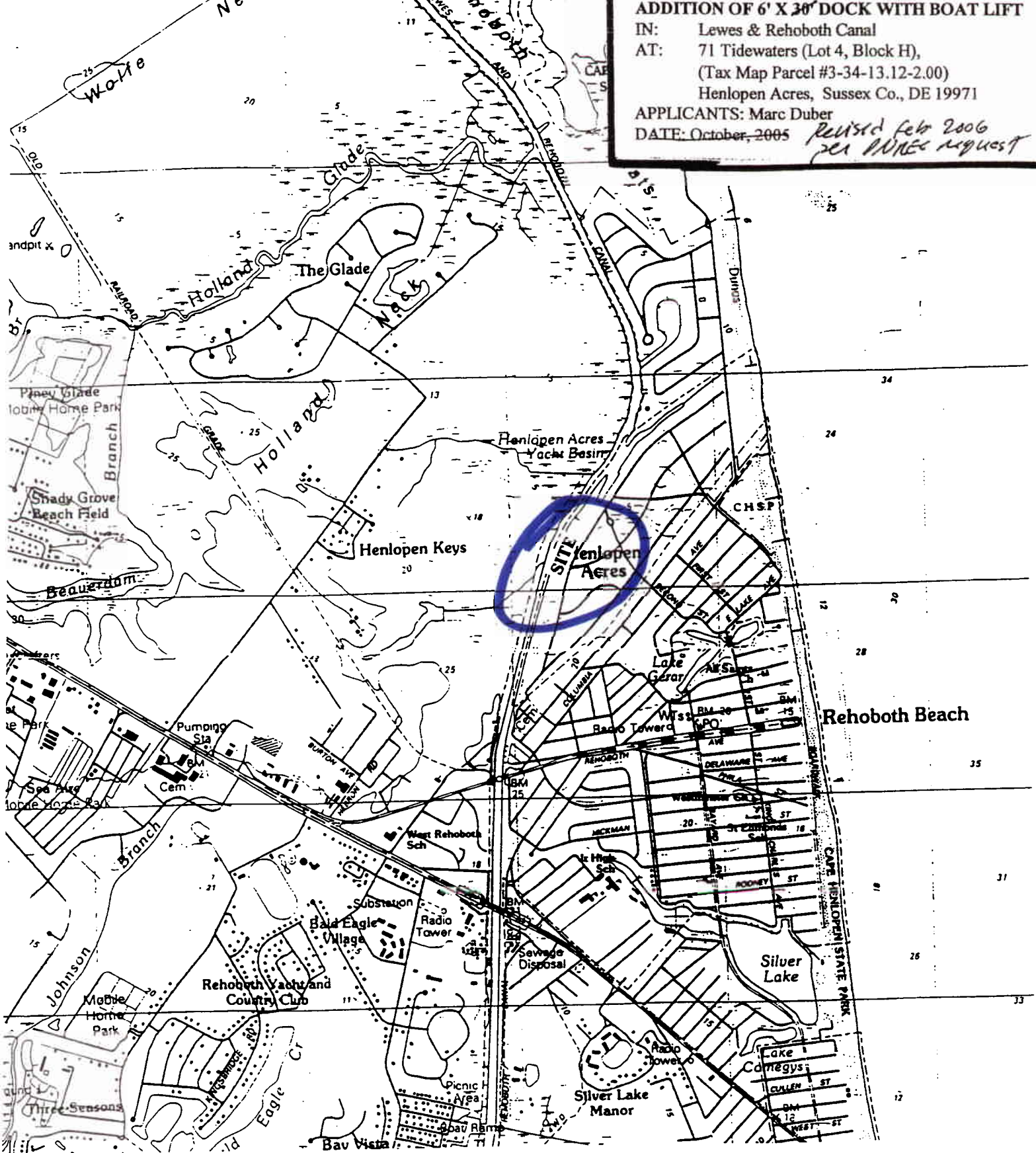


Figure 4. Site location on USGS topographic map, Rehoboth Beach, Delaware quadrangle.  
 Site is adjacent to Lewes and Rehoboth canal. Scale: 1" = 2,000'.

E-4



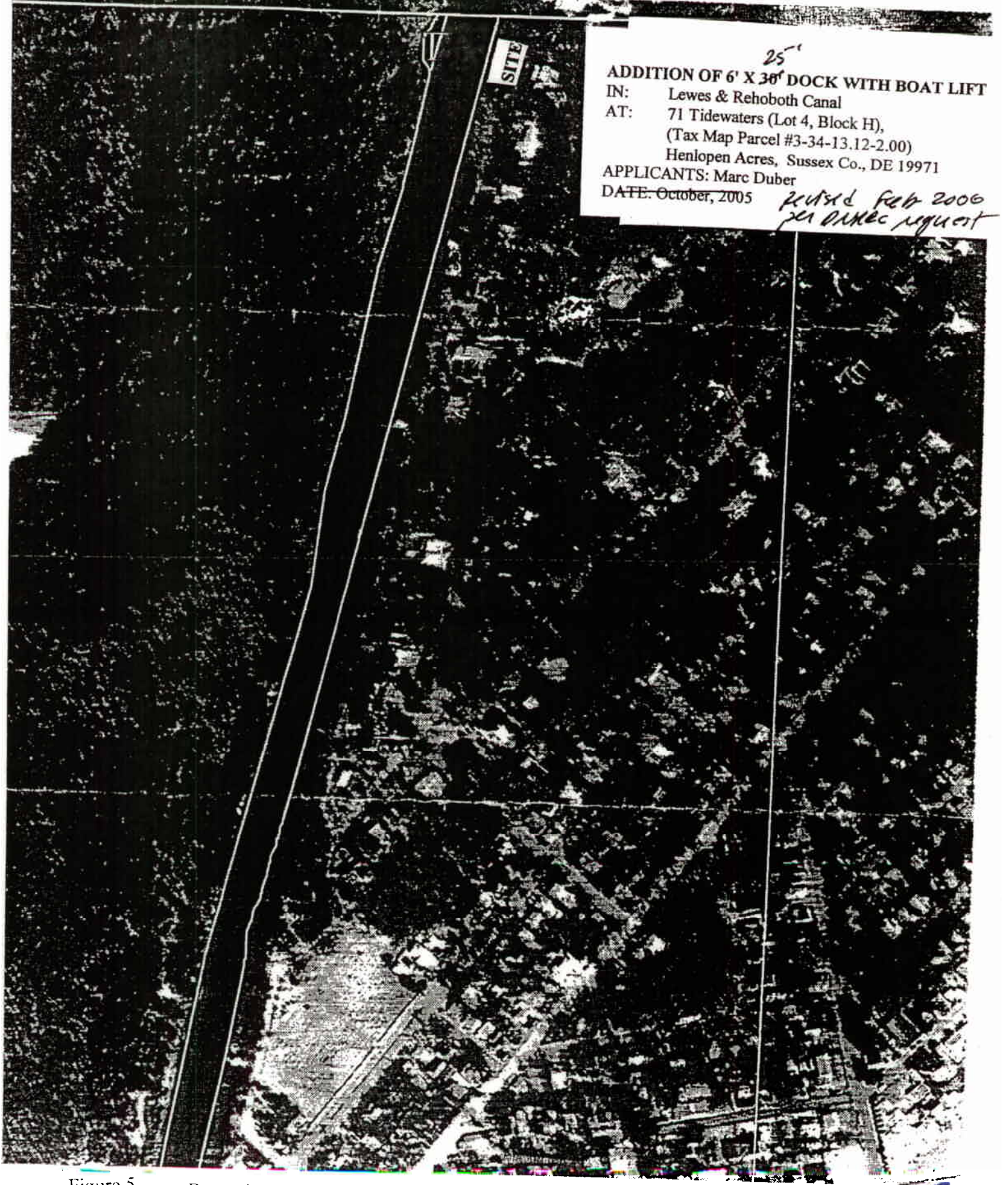
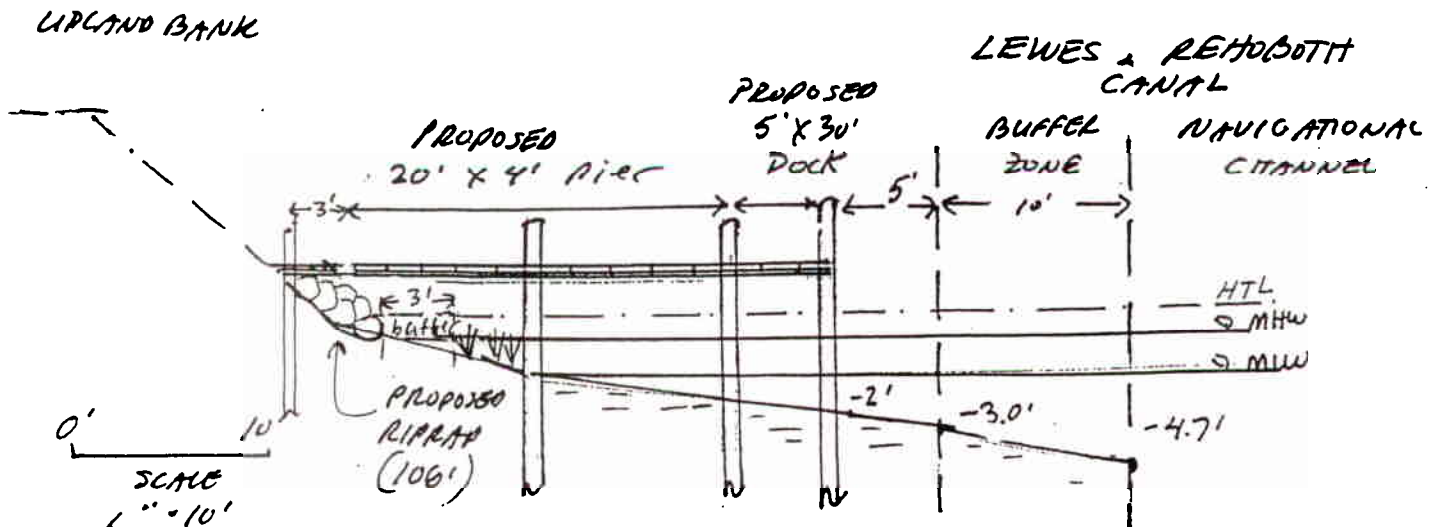
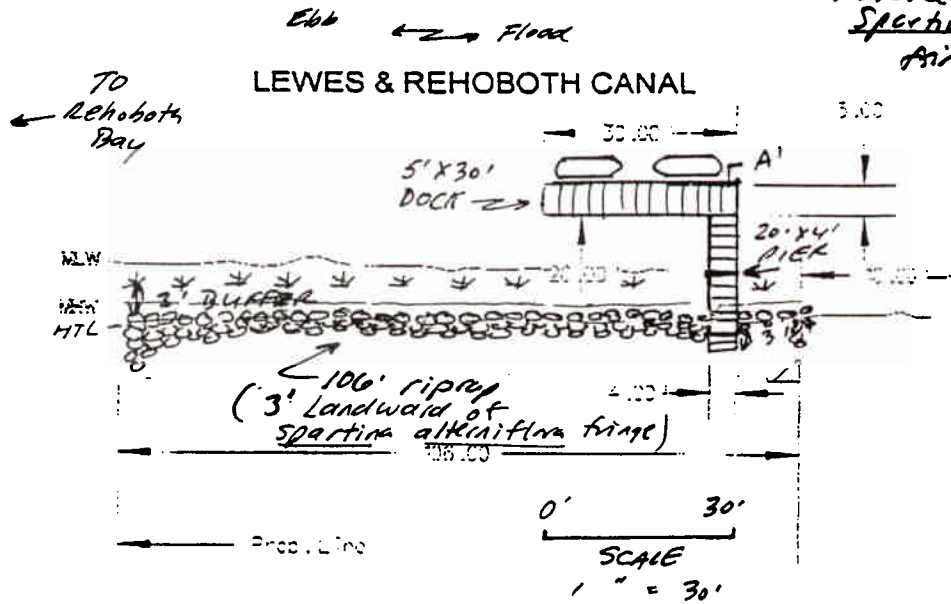


Figure 5. Reproduction of State of Delaware Wetlands Map #DNR034 showing site location. No DNREC wetlands mapped on site. Scale: 1" = 300'.

*E-S*

DOCK; AND 100' RIP-RAP  
 IN: Lewes & Rehoboth Canal  
 AT: Lot 4, Block H, Tidewaters  
 Tax Map parcel #3-34-13.12-2.00  
 Henlopen Acres, Rehoboth Beach  
 Sussex County, Delaware 19971  
 APPLICANT: Peter C. & Ellen M. Scrivner  
 DATE: November, 2000.

Revised Feb 2006 to  
 include a 3' buffer  
 between existing  
Spartina alterniflora  
 fringe and proposed  
 riprap.



REVISED

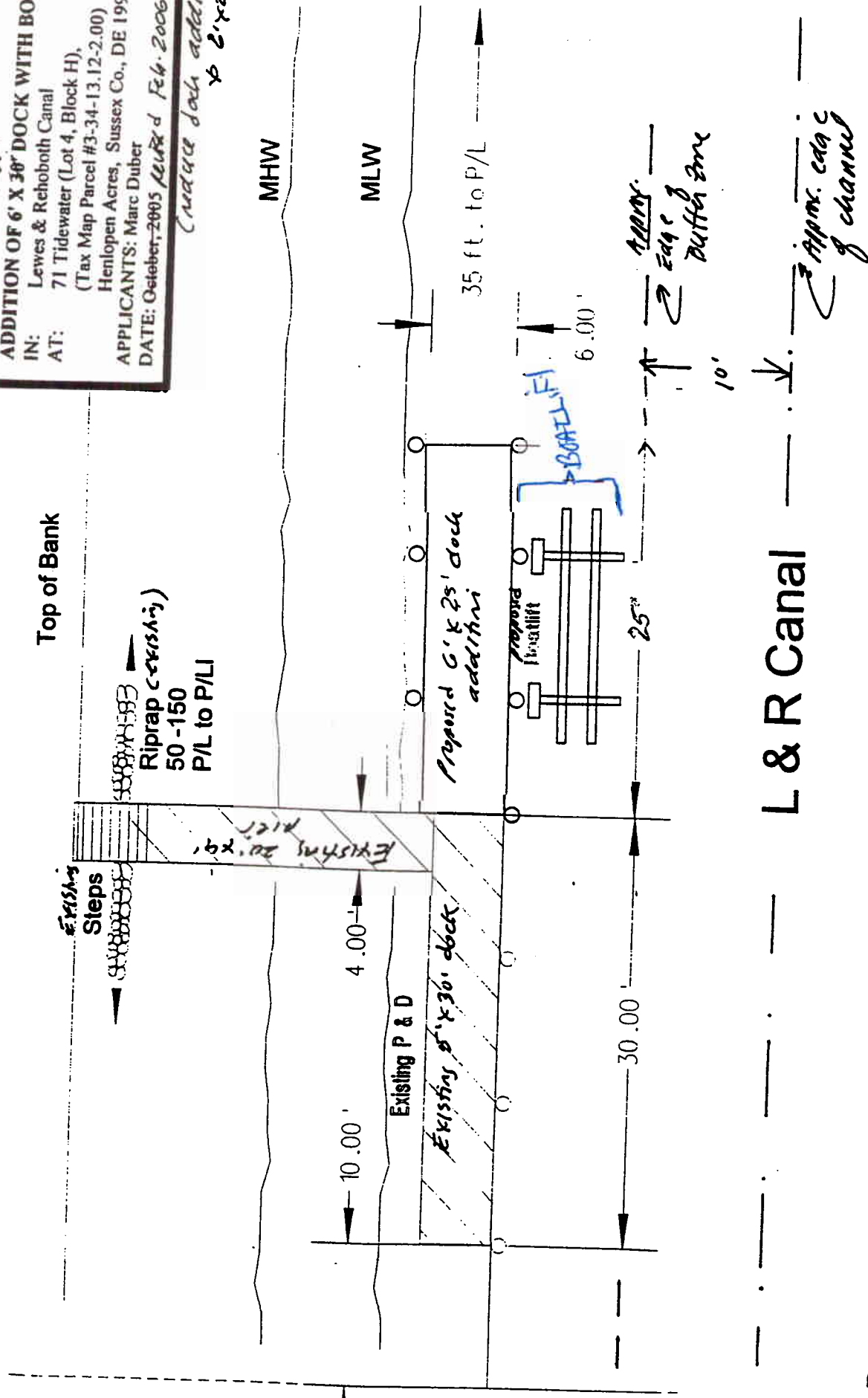
Figure 6.

Plan view and cross-section sketches of proposed project. Sketches for permit application purposes only.

E-6



25'  
**ADDITION OF 6' X 30' DOCK WITH BOAT L**  
 IN: Lewes & Rehoboth Canal  
 AT: 71 Tidewater (Lot 4, Block H),  
 (Tax Map Parcel #3-34-13.12-2.00)  
 Henlopen Acres, Sussex Co., DE 19971  
 APPLICANTS: Marc Duber  
 DATE: October, 2005 *per d Feb. 2006*  
*(reduce dock addition to 2' x 25')*



**Proposed Dock Extension and Boatlift**  
 Marc Duber  
 71 Tidewaters  
 Rehoboth Beach, DE 19971  
 In the L & R Canal

**PRECISION MARINE CONSTRUCTION INC.**  
 2 Woodbridge Hills  
 Rehoboth Beach, DE 19971

Scale: 1" = 10' Date: 8-31-05 Number: 83105-3

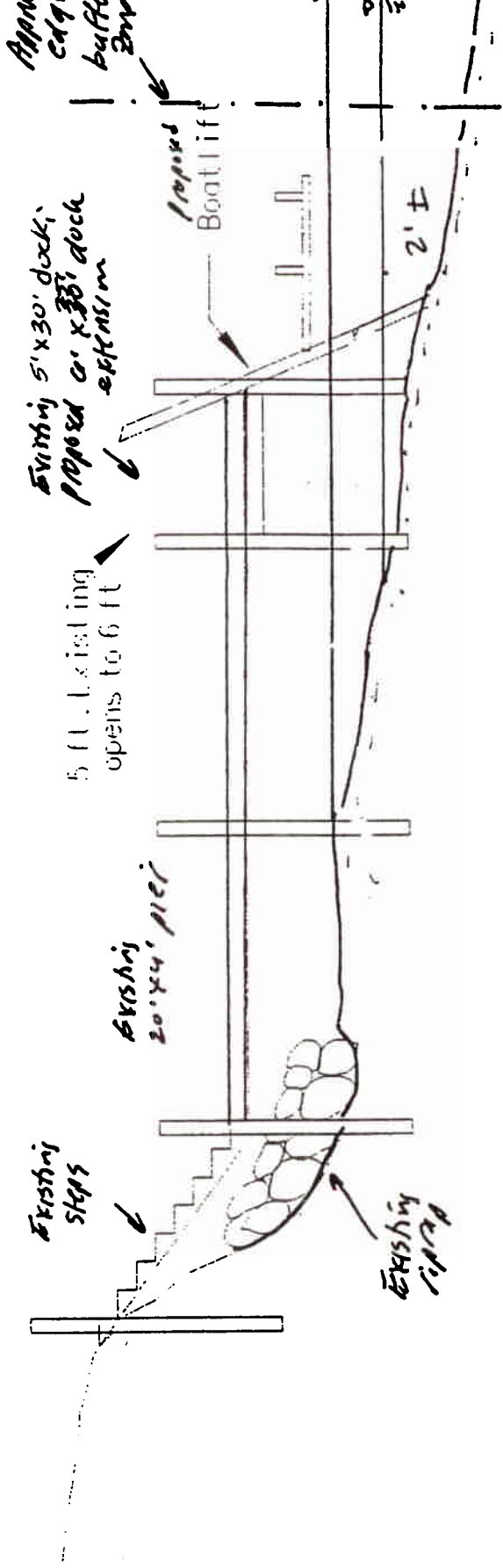
Figure 7. Plan view of existing structure and proposed addition (prepared by Precision Marine Construction, Inc.). Diagram for permit application purposes only.

*Handwritten initials 'E.V.' in blue ink.*

25'

**ADDITION OF 6' X 30' DOCK WITH BOAT LIFT**  
 IN: Lewes & Rehoboth Canal  
 AT: 71 Tidewater (Lot 4, Block H),  
 (Tax Map Parcel #3-34-13.12-2.00)  
 Henlopen Acres, Sussex Co., DE 19971  
 APPLICANTS: Marc Duber  
 DATE: October, 2005 - *Revised Feb. 2006 per  
 Prec. request -*  
*(reduce dock addition  
 to 6'x25')*

**LEWES, REHOBOTH CANAL**



**Proposed Dock Extension and Boatlift**  
**Marc Duber**  
**71 Tidewaters**  
**Rehoboth Beach, DE 19971**  
**In the L & R Canal**

**PRECISION MARINE CONSTRUCTION INC.**  
 2 Woodbridge Hills  
 Rehoboth Beach, DE 19971  
 Scale: 1" = 6' Date: 08-16-05 Number: 081505-8

**Figure 8.** Cross-section of existing structure and proposed addition (prepared by Precision Marine Construction, Inc.). Diagram for permit application purposes only.

**E.8**